

Dependent claim 2, which depends from claim 1, specifies that “said resources include agents within a telephony call center”. Thus, this claim is directed to management of agents within a telephony center. However, dependent claim 4, which depends from claim 1, specifies that “said resources include resources within a computer system.” Thus, the claimed “method of managing resources” of claim 1 is not properly characterized as being drawn to “Call distribution to operator”, but is rather more broadly drawn to management of resources that may or may not comprise resources for call distribution.

Similarly, independent claim 19 of Group I is directed to a “method of allocating resources selected from a finite number of resources for servicing requests”. The resources are not limited to operator resources, and the claimed method for allocating resources is not limited in application solely to call distribution. Dependent claim 20, which depends from claim 19, specifies that “said resources include agents within a telephony call center”. Thus, this claim is directed to allocating agents within a telephony center. However, dependent claim 22, which depends from claim 19, specifies that “said resources include resources within a computer system.” Thus, the claimed “method of allocating resources” of claim 19 is not properly characterized as being drawn to “Call distribution to operator”, but is rather more broadly drawn to allocating resources that may or may not comprise resources for call distribution.

Also, independent claim 36 of Group I is directed to a “resource management system for managing a finite number of resources for servicing requests”. The resources are not limited to operator resources, and the claimed resource management system is not limited in application solely to call distribution. Dependent claim 44, which depends from claim 36, specifies that “said resources include agents within a telephony call center”. Thus, this claim is directed to a system for managing agents within a telephony center. However, dependent claim 46, which depends from claim 36, specifies that “said resources include resources within a computer system.” Thus, the claimed “resource management system” of claim 36 is not properly characterized as being drawn to “Call distribution to operator”, but is rather more broadly drawn to management of resources that may or may not comprise resources for call distribution.

Independent claim 60 of Group II is directed to a “resource management system for managing a finite number of resources for servicing requests”. The Examiner asserts that this claim is drawn to a “Software Program Development Tool”. However, claim 60 does not

recite a tool for developing a software program. Rather, as with claim 36 of Group I, claim 60 of Group II is directed to a “resource management system for managing a finite number of resources for servicing requests.” While independent claim 60 recites “memory for storing computer executable program code, wherein said computer executable program code includes code executable to quantify at least one attribute of said resources, code executable to quantify at least one attribute desired by said at least one request, and code executable to determine at least one suitable resource for servicing said at least one request based at least in part on said at least one quantified attribute of said resources and said at least one quantified attribute desired by said at least one request”, it is not properly characterized as being drawn to a tool for developing a software program. Rather, it recites program code (irrespective of the tool used for developing such program code) that is executable to manage a finite number of resources for servicing requests.

In view of the above, independent claims 1, 19, and 36 of Group I are all directed to either a system or method for managing (or allocating) resources. Similarly, independent claim 60 of Group II is also drawn to a system for managing resources. Thus, the Examiner’s characterization of the subject matter to which these claims are drawn is incorrect. Accordingly, Applicant respectfully submits that the Restriction Requirement is improper.

II. Subcombination Usable Together

The Examiner further asserts in the present Office Action that the claims of Group I and the claims of Group II are related as subcombinations disclosed as usable together in a single combination. *See* item 2 on page 2 of Office Action. The Examiner contends that “Group I has separate utility such as for use in Call distribution to operator for the resource management” (*See* item 2 on page 2 of Office Action), and therefore concludes that Groups I and II are distinct as being subcombinations having separate utility. Applicant respectfully disagrees, as discussed further below.

As described above, the independent claims of Group I encompass systems and methods for managing or allocating resources. Such independent claims are not limited solely to managing/allocating operators in a call distribution environment. As also described above, independent claim 60 is not drawn to a tool for developing a software program. Rather, independent claim 60 is directed to a system for managing resources. As with the independent claims of Group I, independent claim 60 (of Group II) encompasses a system for managing resources, which is not limited solely to managing operators in a call distribution

environment. That is, the resources of claim 60 are not limited to operator resources, and the claimed resource management system is not limited in application solely to call distribution. Dependent claim 64, which depends from claim 60, specifies that “said resources include agents within a telephony call center”. Thus, this claim is directed to a system for managing agents within a telephony center. However, dependent claim 66, which depends from claim 60, specifies that “said resources include resources within a computer system.” Thus, the claimed “resource management system” of claim 60 is not limited solely to managing operators in a call distribution environment.

Applicant fails to understand how the resource management system of independent claim 60 (of Group II) is a subcombination of the resource management system of independent claim 36 (of Group I), for example, that is disclosed as having separate utility. Rather, both of claims 60 and 36 are directed to a resource management system. In both instances, the claimed resource management system may be used for managing resources in a call distribution environment (*see e.g.*, dependent claims 44 and 64) or in other environments (*see e.g.*, dependent claims 46 and 66). While the elements of the claimed systems for managing resources in independent claims 36 and 60 are recited differently, both systems have the utility of managing a finite number of resources. Thus, it appears that the Examiner has improperly characterized these claims as subcombinations that are disclosed as separately usable.

Because both the system of claim 36 (of Group I) and the system of claim 60 (of Group II) have the same utility of managing a finite number of resources, the Examiner has failed to show that these claims are distinct. Therefore, the Restriction Requirement should be withdrawn.

III. No Serious Burden on the Examiner

Further, for a restriction requirement to be proper, there must be a serious burden on the Examiner if restriction is required. M.P.E.P. § 803. For purposes of the initial requirement, a serious burden on the Examiner may be *prima facie* shown if the Examiner shows by appropriate explanation of separate classification. The Examiner asserts in the present Office Action that the claims of Group I are drawn to “Call distribution to operator” classified in class 379, subclass 265.01, and the claims of Group II are drawn to “Software Program Development Tool” classified in class 717, subclass 100. As described above, the Examiner has incorrectly identified the subject matter to which the independent claims of

Groups I and II are drawn. Rather, the independent claims of Groups I and II are each directed to either a system or method for managing (or allocating) resources. As the claims of both Groups I and II are drawn to systems and methods for managing (or allocating) resources, the Examiner has failed to show that a serious burden would be encountered if a restriction were not required. Accordingly, Applicant again respectfully submits that the Restriction Requirement should be withdrawn.

IV. Conclusion/Request for Telephonic Interview

In view of the above, Applicant respectfully requests that the Restriction Requirement be withdrawn. If the Examiner maintains that the Restriction Requirement is proper, Applicant's attorney requests that the Examiner call him at the below-listed telephone number to schedule an interview to discuss this Restriction Requirement further before issuing the next Office Action.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2380, under Order No. 47524/P102US/09901295 from which the undersigned is authorized to draw.

Dated: June 24, 2003

Respectfully submitted,

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